In the High Court of Judicature at Madras

Dated:11.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.399 of 2006

R. Sakthivel .. Petitioner

vs.

1. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Salem City. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Ms. R. Subadra Devi

For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name R. Sakthivel, challenges the impugned order of detention dated 28.02.2006, detaining his sister Ramayee, as "Bootlegger" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1981 (Tamil Nadu Act 14 of 1982).

2. Heard both sides.

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3. Even at the foremost the learned counsel for the petitioner submitted that there was delay in considering the representation of the detenue, which vitiates the ultimate order of detention. With reference to the said claim the learned Additional Public Prosecutor has placed details, which show that the representation of the detenue dated 12.04.2006 was received by the Government on 20.04.2006 and remarks were called on 21.04.2006, remarks were received on 04.05.2006. After receipt of the remarks, though the file was submitted to the Under Secretary and Deputy Secretary on 05.05.2006, the same was dealt with by both the authorities only on 22.05.2006. The Minister for Prohibition and Excise passed orders on 23.05.2006, rejection letter was prepared on the same day, i.e., on 23.05.2006; the rejection letter was sent to the detenue on 25.05.2006 and the rejection letter was served on the detenue only on 29.05.2006. As rightly pointed out though the file was submitted to the Under Secretary and Deputy Secretary on 05.05.2006, the authorities dealt with the same only on 22.05.2006; and there is no explanation or reason for the huge delay in considering the file. In the absence of any explanation, we hold that there is a delay between 05.05.2006 and 22.05.2006. On this ground, the impugned detention order is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenue is directed to be set at liberty forthwith from the custody unless she is required in connection with any other case.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 600 008.

3. The Inspector General of Prisons
   Chennai 2.

4. The Superintendent
   Special Prison for Women, Vellore.

5. The Director General of Police
   Tamil Nadu, Chennai 4.

6. The Public Prosecutor
   High Court, Madras.

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NM(19.07.2006)

H.C.P.No.399 of 2006

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